



[7590-01-P]

## NUCLEAR REGULATORY COMMISSION

[NRC-2013-0210]

### Revisions to NUREG-0800, Chapters 2 and 3

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Standard review plan-final section revision; issuance.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is issuing final revisions to the following sections in Chapters 2 and 3 of NUREG-0800, "Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants: LWR Edition," Section 2.5.1, "Basic Geologic and Seismic Information," Section 2.5.2, "Vibratory Ground Motion," Section 2.5.3, "Surface Faulting," Section 2.5.4, "Stability of Subsurface Materials and Foundations," Section 2.5.5, "Stability of Slopes," and Section 3.7.4, "Seismic Instrumentation."

**DATES:** The effective date of this Standard Review Plan (SRP) update is **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*]**.

**ADDRESSES:** Please refer to Docket ID **NRC-2013-0210** when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- **Federal Rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2013-0210**. Address questions about NRC dockets to Carol Gallagher; telephone: 301-287-3422; e-mail: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov). For technical questions, contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **NRC's Agencywide Documents Access and Management System (ADAMS):**

You may obtain publicly-available documents online in the NRC Library at

<http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "ADAMS Public Documents" and then select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The ADAMS accession number for each document referenced in this notice (if that document is available in ADAMS) is provided the first time that a document is referenced. The final revisions, previously issued draft revisions for public use and comment, and redline strikeouts comparing final revisions with draft revisions are available in ADAMS under the following Accession Nos.:

<b>SRP Section</b>	<b>Final Revision</b>	<b>Draft Revision</b>	<b>Redline Strikeout</b>
2.5.1	ML13316C067	ML12300A231	ML13340A120
2.5.2	ML13316C066	ML12301A010	ML14023A174
2.5.3	ML13316C064	ML12302A003	ML13340A121
2.5.4	ML13311B744	ML12302A004	ML13340A122
2.5.5	ML13316C068	ML12302A005	ML13340A123
3.7.4	ML13324A570	ML12304A031	ML13340A124

The NRC posts its issued staff guidance on the NRC's external Web page:

<http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr0800/>

**FOR FURTHER INFORMATION CONTACT:** Jonathan DeGange, Office of New Reactors,  
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## **SUPPLEMENTARY INFORMATION:**

### **I. Background.**

On September 9, 2013 (78 FR 55118), the NRC staff published SRP section 3.7.4 for public comment. Additionally, on September 13, 2013 (78 FR 56749), the NRC staff published SRP sections 2.5.1-2.5.5 for public comment. The NRC staff received no comments on the proposed revisions. This guidance is being issued as final for use. Details of specific changes between current SRP guidance and the final guidance being issued here are included at the end of each of the revised sections themselves, under the “Description of Changes” subsections.

### **II. Backfitting and Issue Finality.**

These SRP section revisions provide guidance to the staff for reviewing applications for a construction permit and an operating license under part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR) with respect to site characteristics and parameters, and designs of structures, components, equipment, and systems. The SRP also provides guidance for reviewing an application for a standard design approval, a standard design certification, a combined license, and a manufacturing license under 10 CFR part 52 with respect to those same subject matters.

Issuance of these SRP section revisions does not constitute backfitting as defined in 10 CFR 50.109 (the Backfit Rule) nor is it inconsistent with the issue finality provisions in 10 CFR part 52. The NRC’s position is based upon the following considerations.

1. *The SRP positions would not constitute backfitting, inasmuch as the SRP is internal guidance to NRC staff.*

The SRP provides internal guidance to the NRC staff on how to review an application for NRC regulatory approval in the form of licensing. Changes in internal staff guidance are not matters for which either nuclear power plant applicants or licensees are protected under either the Backfit Rule or the issue finality provisions of 10 CFR part 52.

*2. The NRC staff has no intention to impose the SRP positions on existing licensees either now or in the future.*

The NRC staff does not intend to impose or apply the positions described in the SRP to existing licenses and regulatory approvals. Hence, the issuance of this SRP—even if considered guidance within the purview of the issue finality provisions in 10 CFR part 52—does not need to be evaluated as if it were a backfit or as being inconsistent with issue finality provisions. If, in the future, the NRC staff seeks to impose a position in the SRP on holders of already issued licenses in a manner that does not provide issue finality as described in the applicable issue finality provision, then the staff must make the showing as set forth in the Backfit Rule or address the criteria for avoiding issue finality as described in the applicable issue finality provision.

*3. Backfitting and issue finality do not—with limited exceptions not applicable here—protect current or future applicants.*

Applicants and potential applicants are not, with certain exceptions, protected by either the Backfit Rule or any issue finality provisions under 10 CFR part 52. Neither the Backfit Rule nor the issue finality provisions under 10 CFR part 52—with certain exclusions—were intended to apply to every NRC action that substantially changes the expectations of current and future applicants. The exceptions to the general principle are applicable whenever an applicant references a 10 CFR part 52 license (e.g., an early site permit) or NRC regulatory approval

(e.g., a design certification rule) with specified issue finality provisions. The NRC staff does not, at this time, intend to impose the positions represented in the SRP in a manner that is inconsistent with any issue finality provisions. If, in the future, the staff seeks to impose a position in the SRP section in a manner that does not provide issue finality as described in the applicable issue finality provision, then the staff must address the criteria for avoiding issue finality as described in the applicable issue finality provision.

### **III. Congressional Review Act.**

In accordance with the Congressional Review Act, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of the Office of Management and Budget.

Dated at Rockville, Maryland, this 30<sup>th</sup> day of July, 2014.

For the Nuclear Regulatory Commission.

Joseph Colaccino, Chief  
New Reactor Rulemaking and Guidance Branch  
Division of Advanced Reactors and Rulemaking  
Office of New Reactors

(e.g., a design certification rule) with specified issue finality provisions. The NRC staff does not, at this time, intend to impose the positions represented in the SRP in a manner that is inconsistent with any issue finality provisions. If, in the future, the staff seeks to impose a position in the SRP section in a manner that does not provide issue finality as described in the applicable issue finality provision, then the staff must address the criteria for avoiding issue finality as described in the applicable issue finality provision.

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For the Nuclear Regulatory Commission.

**/RA/**

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**SUBJECT: REVISIONS TO NUREG-0800, CHAPTERS 2 AND 3**

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